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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/202,336 12/14/98 WITTKOTTER

E HPB-7

EXAMINER

TM02/0828

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ART UNIT

PAPER NUMBER

2161

DATE MAILED:

08/28/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/202,336

Applicant(s)

WITTKOTTER, ERLAND

Examiner

Marianne Huseman

Art Unit

2161

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 December 1998.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 December 1998 is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3.
- 18) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other: _____.

Drawings

1. The drawings are objected to because descriptive labels, other than numerical are needed for figures 1, 2 and 3. Correction is required.

Specification

2. The following guidelines illustrate the preferred layout and content for patent applications. These guidelines are suggested for the applicant's use.

Arrangement of the Specification

The following order or arrangement is preferred in framing the specification and, except for the reference to "Microfiche Appendix" and the drawings, each of the lettered items should appear in upper case, without underlining or bold type, as section headings. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) Title of the Invention.
- (b) Cross-References to Related Applications.
- (c) Statement Regarding Federally Sponsored Research or Development.
- (d) Reference to a "Microfiche Appendix" (see 37 CFR 1.96).
- (e) Background of the Invention.
 1. Field of the Invention.
 2. Description of the Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (f) Brief Summary of the Invention.
- (g) Brief Description of the Several Views of the Drawing(s).
- (h) Detailed Description of the Invention.
- (i) Claim or Claims (commencing on a separate sheet).
- (j) Abstract of the Disclosure (commencing on a separate sheet).
- (k) Drawings.
- (l) Sequence Listing (see 37 CFR 1.821-1.825).

3. The disclosure is objected to because of the following informalities: Throughout the specification, Applicant refers to various specific claims; Applicant should note that it is preferred that claims not be specifically mentioned in the specification because if the claims are required to be renumbered or their content altered by amendment, that the language of the specification will also have to be correspondingly altered.

On page 2, line 15, a comma is needed after "bitmaps".

On page 4, line 17, a comma is needed after "respectively".

On page 4, line 21, "a" should be -- an --.

On page 7, "been" should probably be deleted.

On page 14, line 4, "minimized" is spelled incorrectly.

On page 20, line 18, "a" should be --an--.

On page 22, line 10, the explicit definitions of the acronyms stated is needed.

On page 27, line 9, "clearly to" should be -- to clearly --.

Appropriate correction is required.

4. The use of the trademark JAVA™ has been noted in this application. It should be capitalized wherever it appears and be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1 – 18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, lines 5, 15, 19 and 20 the phrase "and/or" is considered vague and indefinite as it is not clear as to what exactly is being claimed. This also applies to claim 4, lines 2 and 6; claim 5, line 2; claim 7, lines 2 and 4; claim 8, line 4; claim 9, lines 11, 13 and 14; claim 10, line 7; claim 11, line 5; claim 13, line 4 and claim 17, line 3.

In claim 5, line 8, it is not clear as to what is meant by "gap data".

In claim 12, it is not clear as to how gaps are closed by "linking"; i.e. it is not clear as to what is being linked.

In claim 15, it is not clear as to what is meant by "agreeing a code", nor as to how agreeing to a code relates to claim 14 and the encoding step; i.e. what is the function of the code?

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1 – 11 and 13 -18 are rejected under 35 U.S.C. 102(b) as being anticipated by Waite et al.

Regarding claims 1 and 9: Applicant's local computer reads on element PC 10, Applicant's local data storage means reads on element 16, described at column 2, lines 36 – 39, Applicant's electronically published document reads on Waite et al's software program, Applicant's additional protected data reads on the critical segment and decryption key, column 1, lines 60 – 63, Applicant's linking means reads on the bios and loader segment of element 10 and Applicant's external data source reads on element 12.

Regarding claims 2 – 5, 10 and 11: Applicant's non-linear storage reads on magnetic disc storage, which when information is stored on the disc, it is stored in the various sectors or data gaps that are available, thus it is common to have the information stored non-linearly. Applicant's additional protected data reads on the discussion of claim 1, above and Applicant's operational instructions read on the cooperation of the bios, loader segment, decryption key and critical segment which, together is used to make available to the user a useable software program, column 4, lines 8 – 13.

Regarding claims 6, 14 and 15: Applicant's encoding means reads on column 3, lines 49 – 52 wherein encrypting the overlay file and the decryption key is discussed.

Regarding claims 7, 13 and 17: Applicant's billing module reads on element 11 and the discussion at column 3, lines 9 – 15.

Regarding claim 8: Applicant's control module reads on figure 2, the operating system of Waite et al and the description at column 4, lines 14 – 48.

Regarding claim 16: Applicant's plurality of document units reads on the "various programs" of Waite et al, see abstract, line 1.

Regarding claim 18: The language of Applicant's claim 18 reads on the critical segment and column 5, lines 42 – 48.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Le Rue, Schneck et al, Fahn et al, Holmes et al, Narasimhalu et al, Ronning and Stefik et al are cited as they all teach some type of secure electronic distribution system for the distribution of electronically published works.


10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marianne Huseman whose telephone number is 703-605-4277. The examiner can normally be reached on Monday - Friday, 6:00 AM - 2:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on 703-305-9768. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-9051 for regular communications and 703-305-9051 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-9700.

M. Huseman

mh
August 23, 2001


JAMES P. TRAMMELL
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